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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,770	01/23/2004	Andrew Halliday	67633	7531

48940 7590 06/19/2006

FITCH EVEN TABIN & FLANNERY
120 S. LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,770

Applicant(s)

HALLIDAY ET AL.

Examiner

Reginald L. Alexander

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1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 27, it is not clear what the difference is between the recited "manifold" and "inlet chamber". The two elements appear to overlap in the description of the device.

In claim 25, it is not clear what the difference is between the "inlet" recited at line 3 and the "inlet" recited at line 8. If these are separate elements, proper antecedent basis must be established for each.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bentley et al.

There is disclosed in Bentley a cartridge containing beverage ingredients, the cartridge comprising an inlet 26, an outlet 37 centrally located between two sidewalls of

the cartridge, a storage chamber 21 having an inlet 28, a circumferential manifold 27; a lid 25, a filter 36, passages formed between ribs 38 and being located between the filter and a top of the cartridge, an outer member 20, and an inner member 37, 40.

In regards to claim 27 the cartridge is formed of an outer shell having a rim 23 bounding an opening, a sidewall portion (outer member) 20 attached to the rim, and an upper wall portion 22 attached to the sidewall and spaced from the rim by the sidewall. The circumferential manifold substantially surrounds the storage chamber and outlet.

In regards to the lid be "pierceable", it is clear from Bentley that the lid is of a material which can be pierced.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-11, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley et al. in view of Rodth

Rodth discloses a disc-shaped beverage cartridge. It would have been obvious to one skilled in the art to construct the cartridge of Bentley in a disc shape as taught by Rodth, in order to accommodate a different shape of a beverage device brewing chamber.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley in view of Rodth as applied to claim 11 above, and further in view of EPO 0449533.

The European document discloses four openings 13 within a wall of the cartridge. It would have been obvious to one skilled in the art to modify the cartridge of Bentley, as modified by Rodth, with that disclosed in EPO 0449533 and provide four liquid openings in the peripheral wall of the circumferential manifold, in order to slow the brewing time.

Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley in view of Rodth as applied to claim 11 above, and further in view of EPO 0455337.

The European document discloses forty openings 13 within the wall of the cartridge. It would have been obvious to one skilled in the art to modify the cartridge of Bentley, as modified by Rodth, with that disclosed in EPO 0455337 and provide forty liquid openings in the peripheral wall of the circumferential manifold, in order to increase the brewing time.

Response to Arguments

Applicant's arguments filed 04 May 2006 have been fully considered but they are not persuasive. Applicant argues that the prior art fails to disclose a circumferential manifold separated from a storage chamber. Applicant states that the Bentley reference discloses a channel that extends along only three of four sides of a rectangular package. It should be noted that the term "circumferential" does not define a structural arrangement that completely surrounds. The channel or manifold disclosed in Bentley is circumferentially located, i.e. located at the outer edge of the cartridge. There is nothing

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in the claim language which would require the manifold to completely surround the cartridge chamber.

Applicant additionally argues that the prior art fails to disclose a centrally located outlet. Without reference in the claims as to what defines "central", it can be shown in Bentley that the outlet is located at a central location between two sidewalls of the cartridge.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

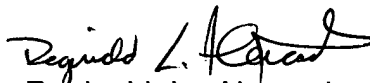
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
11 June 2006


Reginald L. Alexander
Primary Examiner
Art Unit 1761